

Attachment 1

To: Mayor and Town Council

From: Lisa Anglin, Town Clerk

Re.: Administration Portion of the Beach Topics Discussion

Date: January 14, 2014

Below are the current Town of Sunset Beach Ordinances (with associated penalty ordinances per section) as outlined on the Citation Booklets (attached) used by Beach Patrol.

50.05 - DEPOSITING GARBAGE ON PUBLIC OR PRIVATE PROPERTY

- (A) No person shall throw, place or deposit any garbage in any street, alley, public place or private property or in commercial dumpsters, within the city limits, except in garbage cans provided on the streets and beach strand for small items, not bags of wet garbage from home.
- (B) It is unlawful for any person, firm, organization or private corporation, or for the governing body, agents or employees of any municipal corporation, to place or leave or cause to be placed or left, temporarily or permanently, any trash, refuse, garbage, scrapped automobile, scrapped truck or part thereof on the right-of-way of any state highway or public road where that highway or public road is inside the town, including those highways and public roads within the area of jurisdiction of the extraterritorial zoning, unless the refuse, garbage, scrapped automobile, scrapped truck or part thereof is placed in a designated location or container for removal by a specific garbage or trash service collector.

50.99 - PENALTY

- (A) Except as otherwise specifically provided herein, violation of any provision of Chapter 50 shall constitute an infraction or misdemeanor as provided by G.S. 14-4. The maximum fine, term of imprisonment or infraction penalty is the maximum as set forth in G.S. 14-4. In addition to constituting an infraction or misdemeanor, violation of such ordinance shall subject the offender to a civil penalty to be recovered by the town in a civil action in the nature of debt if said civil penalty is not paid by the offender within 72 hours after being cited for the violation. Unless otherwise specifically stated in the Code of Ordinances, the civil penalty shall be \$50.00 for each separate or distinct offense.
- (B) The placing or leaving of the articles or matter forbidden by § 50.05 shall, for each day or portion thereof that the articles or matter are placed or left, constitute a separate offense of \$500.00.
- (C) Violation of § 50.03(A)(2) shall not constitute an infraction or misdemeanor. Violation of § 50.03(A)(2) shall subject the offender to a civil penalty to be recovered by the town in a civil action in the nature of debt if said civil penalty is not paid within 72 hours after being cited for the violation. The civil penalty shall be \$25.00 for each separate or distinct offense.

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71.08 - DRIVING OR RIDING ON SAND DUNES PROHIBITED

No person shall ride an animal or operate a vehicle of any type on, over or upon any sand dune lying within the town limits. For the purposes of this section and [section 71.09](#), a vehicle is defined as any device in, upon or by which any person or property is or may be transported.

71.09 - BEACH STRAND CLOSED TO VEHICULAR TRAFFIC AND RIDDEN ANIMALS

- a) Except as otherwise provided herein, it shall be unlawful to place, park or operate any automobile, off-road vehicle, dune buggy, motorcycle, golf cart or other motor-powered vehicle, battery-powered vehicle or electric-powered vehicle on the beach strand within the town limits. It is also unlawful for any person who owns any of said vehicles to allow it to be placed or operated in violation of this section. In addition, no person shall ride an animal on the beach strand.
- b) The provisions of this section shall not apply to:
 - (1) Police, fire, rescue or other municipal vehicles and employees while in the performance of their duties.
 - (2) Handicapped persons (which shall mean a person with a mobility impairment within the meaning of G. S. 20-37.5) who may operate a factory-manufactured motorized wheelchair or similar vehicle not exceeding 600 pounds gross weight designed for and intended to be used as a means of transportation for a person with a mobility impairment, or a golf cart for which has been issued a permanent handicapped registration plate, as long as such person has received a permit issued by the Town of Sunset Beach.
- c) Any motorized wheelchair, similar vehicle or golf cart operating on the beach strand pursuant to the above subsection (b) exception for handicapped persons shall comply with the following provisions and regulations:
 - (1) The speed of any motorized wheelchair, similar vehicle or golf cart operating on the beach strand shall not exceed 5 miles per hour.
 - (2) No motorized wheelchair, similar vehicle or golf cart shall at any time cross to the beach strand unless crossing at access-ways designated by the town as vehicular crossings.
 - (3) Pedestrians, swimmers and sunbathers shall have the right-of-way at all times while on the beach strand.
 - (4) Operators of motorized wheelchairs, similar vehicles or golf carts will at all times operate their vehicles in a safe and prudent manner and will give warning before starting, stopping and/or turning the vehicle.
 - (5) Operators of motorized wheelchairs, similar vehicles or golf carts will remain clear of and not otherwise disturb federally-protected turtle nesting areas.
 - (6) In the case of a golf cart being used for a handicapped child's access to the beach strand, only the parent or guardian may operate the vehicle.
 - (7) In the case of a golf cart being used, access of the beach strand can be made only at the East End or Gazebo parking lot Emergency vehicle access.

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72.03 - STOPPING, STANDING OR PARKING PROHIBITED IN CERTAIN PLACES

No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic, or in compliance with the directions of a police officer or traffic-control device, in any of the following places:

- (A) On a sidewalk;
- (B) On a crosswalk;
- (C) Within 30 feet of any flashing beacon, stop sign or traffic-control signal located at the side of a street or roadway;
- (D) Alongside or opposite any street excavation or obstruction, when such stopping, standing or parking would obstruct traffic;
- (E) Upon any bridge or other elevated structure or within any underpass structure; and
- (F) On the roadway side of any vehicle stopping, standing or parked at the edge or curb of a street.

70.99 - PENALTY

- (A) Except as otherwise specifically provided herein, violation of an ordinance regulating the operation of vehicles shall constitute an infraction or misdemeanor as provided by G.S. 14-4. The maximum fine, term of imprisonment or infraction penalty is the maximum as set forth in G.S. 14-4. In addition to constituting an infraction or misdemeanor, violation of such ordinance shall subject the offender to a civil penalty to be recovered by the Town in a civil action in the nature of debt if said civil penalty is not paid by the offender within seventy-two (72) hours after being cited for the violation. Unless otherwise specifically stated in the Code of Ordinances, the civil penalty shall be fifty dollars (\$50.00) for each separate or distinct offense.
- (B) Violation of a parking ordinance shall not constitute an infraction or misdemeanor. Violation of a parking ordinance shall subject the offender to a civil penalty to be recovered by the town in a civil action in the nature of debt if said civil penalty is not paid within 72 hours after being cited for the violation. The civil penalty shall be \$25.00 for each separate or distinct offense.

92.40 - BURNING WITHIN TOWN LIMITS; OPEN BURNING ON BEACH STRAND

- (A)
 - 1. No person shall start or maintain any outdoor fire or authorize any outdoor fire to be started or maintained without a permit issued by the Town Fire Chief.
 - 2. No permit shall be issued that is in violation of any local, state or federal air quality open burning regulation.

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3. No person shall maintain any bonfire or other outdoor fire or authorize any such fire on any property unless:
 - (a) The purpose is to burn vegetation to clear land for the purpose of construction of a primary or accessory structure or right-of-way maintenance and the location of the fire is not less than 50 feet from any structure and adequate provisions are made prevent the fire from spreading to within 50 feet of any structure or other property.
 - (b) The purpose is to burn materials generated as a result of a natural disaster; and (Burning under this section would require a proclamation from the Mayor.)
 - (c) The purpose is for the training of fighting personnel.
4. The Town Fire Chief may, at his or her sole discretion, prohibit any and all bonfire or other outdoor fires when atmospheric conditions or local circumstances make the fires hazardous.

(B) It shall be unlawful for any person to start, kindle, operate or maintain any open fire including barbecue, charcoal grill or fireworks of any type whatsoever on the beach strand of the town.

94.01 - UNNECESSARY NOISE PROHIBITED

It shall be unlawful for any person, firm or corporation to create or assist in creating any unreasonably loud, disturbing sounds levels in the town, taking into consideration volume, duration, frequency and other characteristics of the sound.

96.31 - SEA TURTLE SANCTUARY

- (A) All areas within the town limits above the mean low water mark of the Atlantic Ocean and extending therefrom to the primary dune are hereby declared to be a Sea Turtle Sanctuary.
- (B) It shall be unlawful within the Sea Turtle Sanctuary for any person to willfully take, disturb or destroy any sea turtle or their nests or eggs. Furthermore, between May 1 and November 1 of each year, there shall not be allowed after dark any use of the Sea Turtle Sanctuary other than pedestrian traffic, except town authorized vehicles, emergency vehicles and commercial fishing activities as specifically allowed by law.
- (C) It shall be unlawful for any person to leave between the hours of sunset and sunrise, any property, including but not limited to volleyball, badminton and tennis nets, poles, tents, horseshoe stakes, croquet courses, grills, umbrellas and recreational equipment, or any other personal property items within the sea turtle sanctuary.

96.32 - PETS ON BEACH STRAND

- (1) All pets shall at all times be leashed and under the control of a responsible person.
- (2) Pets shall at all times be restrained by a leash no longer than ten (10) feet in length.
- (3) Pets shall not be permitted on the beach strand beginning the Friday before Memorial Day through Labor Day during the hours of 8:00 A.M. and 6:00 P.M.

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For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

BEACH STRAND. All land between the mean low watermark of the Atlantic Ocean and the first line of stable vegetation, as defined in the regulations of the Coastal Resources Commission of the state.

96.33 - CLEANING UP AFTER PETS

- (A) Any person owning, keeping, possessing or harboring any pet shall carry in plain view bags and utensils to promptly remove and dispose of all feces left by the pet on any public property and on any private property not owned or lawfully occupied by such person within the Town of Sunset Beach and shall promptly remove said feces left by said pet.

96.99 - PENALTY

- (A) The violation of [Section 96.31](#) shall be punishable as allowed for conviction of a Violation of G.S. 113-189 and 113-337 and shall further be punishable as a misdemeanor under GS 14-4.
- (B) Violation of Sections [96.32](#) and [96.33](#) shall be a misdemeanor punishable as provided in GS 14-4. In addition, any person violating this section shall also be subject to a civil penalty in the amount of \$ 100 for each separate and distinct offense, which shall be payable within 72 hours of being cited for the violation.

130.02 - DRINKING IN PUBLIC

No person shall consume, serve or drink wine, beer, whiskey or alcoholic beverages of any kind on the public streets, boulevards, alleys or in public buildings.

130.04 - OPERATION OF LASER POINTERS

- (A) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

LASER POINTER OR OTHER SIMILAR DEVICE. Any device capable of emitting a highly amplified ultraviolet or infrared light regardless of the color of the light emitted.

- (B)
- (1) It shall be unlawful for any person to focus, point, shine or otherwise direct the beam of a laser pointer or other similar device at another person or any object with the intention of or the result of directing the beam to another person, in such a manner as to harass, annoy or place in fear of bodily harm the person.
 - (2) It shall also be unlawful for any person to aim a laser pointer into the sky or at any moving or stationary vehicle.

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130.05 - CERTAIN TYPES OF PYROTECHNICS PROHIBITED

It shall be unlawful for any person to be in possession of, using or the like any of the following pyrotechnics:

- (A) Wire sparklers consisting of wire or stick coated with nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition, including those containing 100 grams of mixture per item or less; and/or
- (B) Other sparkling devices which emit showers of sparks and sometimes a whistling or crackling effect when burning, which do not detonate or explode, do not spin, are hand-held or ground-based and which cannot propel themselves through the air, contain not more than 75 grams of chemical compound per tube or not more than a total of 200 grams if multiple tubes are used.

130.06 - CERTAIN ACTIVITIES PROHIBITED IN OCEAN, CANALS AND WATERWAYS

- (A) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

PERSONAL WATERCRAFT. As set forth in G.S. § 75A-13.3(a).

- (B) The restrictions for operation of a personal watercraft shall be the same as described in G.S. § 75A-13.3(b), except that only persons at least 13 years of age, but under 16 years of age, may operate personal watercraft, pursuant to subparagraphs (1) and (2) of that statute.
- (C) In all waters of the town and its extraterritorial jurisdiction, no person may operate a personal watercraft in excess of headway speed, which shall not exceed six mph, within 50 feet of posted water bird sanctuaries or management areas or within 25 feet of the marsh or shore within the Intracoastal Waterway.
- (D) In accordance with G.S. § 113-291.1, it shall be unlawful for any operator of a personal watercraft on the waters of the town and its extraterritorial jurisdiction to chase, harass, molest or disturb any wildlife, except when lawfully angling for, hunting or trapping the wildlife.
- (E) At the time of purchase, a dealer in personal watercraft shall require the buyer of a personal watercraft to receive instruction addressing safety operations of the watercraft.
- (F) A personal watercraft livery owner or the livery's agent or employee shall:
 - (1) Require positive identification from all renters;
 - (2) Post personal watercraft regulations;
 - (3) Require all renters to read the regulations;
 - (4) Require all rents to sign a rental contract, containing a clause stating that the renter has read and understood all applicable safety regulations; and
 - (5) Instruct all renters in the safe operation of the personal watercraft.

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(G)

- (1) Notwithstanding the above, the operation of any personal watercraft within the boundaries of the town and its extraterritorial jurisdiction is hereby prohibited, except for operation in the Intracoastal Waterway the main channel through Tubbs Inlet from the south end of Big Narrows to the Intracoastal Waterway and the Atlantic Ocean beyond 750 feet from the water's edge or any pier.
- (2) The operation of the watercraft, in the allowed areas, shall be permitted only between 7:00 a.m. and sunset on any given day.

(H) It shall be unlawful for any person to launch or recover any personal watercraft from the beach on the Atlantic Ocean within the boundaries of the town and its extraterritorial jurisdiction.

(I) Personal watercraft must move at "no wake speed" through posted areas after launching.

(J) The above prohibitions shall not apply to law enforcement officials or rescue officials while engaged in ocean rescue or law enforcement.

- (1) It shall be unlawful to kayak, raft, canoe or use boogie boards within 100 yards of any ocean pier (except for the use of rafts in shallow water by children with parental supervision)
- (2) It shall be unlawful to surf in the Atlantic Ocean adjacent to the Town of Sunset Beach between 32nd Street extended to the Atlantic Ocean on the west and 5th Street extended to the Atlantic Ocean on the east.
- (3) It shall be unlawful to surf in the Atlantic Ocean adjacent to the Town of Sunset Beach within its boundaries without a leash attached to the surfer while the surfer is in the water, which leash may be no longer than six feet.
- (4) It shall be unlawful to surf, kayak, raft, canoe or use boogie boards in or about the Atlantic Ocean or other waterways adjacent to the Town of Sunset Beach within its boundaries without due caution and circumspection and in a manner so as to endanger or be likely to endanger any person or property.

(K) Violation of this section shall be a misdemeanor punishable as provided by G.S. § 14-4. In addition, any person violating the terms of this section shall be subject to a civil penalty in the amount of \$25.00 payable within 72 hours of being cited for violation of this section.

130.07 - PUBLIC NUDITY

(A)

- (1) It shall be unlawful for any fully developed female to willfully expose her breasts on any public beach, any public street or in any public park.
- (2) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning:

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EXPOSE HER BREASTS. The revealing of the female breast with less than a fully opaque covering on any portion thereof lower than the top of any part of the areola.

- (B) It shall be unlawful for any person to appear on any public beach, any public street or in any public park in a state of dress or undress so as to expose to the view of others the human male or female pubic area, pubic hair, anus, vulva or buttocks with less than a fully opaque covering.

130.09 - HOLES ON BEACH STRAND

- (A) For the purposes of this section, the following definitions shall apply:

BEACH STRAND. All land between the low watermark of the Atlantic Ocean and the first line of stable vegetation as defined in the regulations of the North Carolina Coastal Resources Commission.

- (B) Holes dug on the beach strand are required to be attended at all times and filled prior to leaving the beach. No hole, trench or depression on the beach strand shall exceed 18 inches in depth and five feet in width.
- (C) Violation of this section shall not constitute an infraction or misdemeanor. Violation of this section shall subject the offender to a civil penalty to be recovered by the town in a civil action in the nature of debt if said civil penalty is not paid within 72 hours after being cited for the violation. The civil penalty shall be \$25.00 for each separate or distinct offense.

130.10 - GLASS CONTAINERS PROHIBITED ON BEACH STRAND

It shall be unlawful for any person to have glass containers of any kind on the beach strand.

130.15 - SHADING DEVICES AND SPORTING EQUIPMENT ON BEACH STRAND

- (A) For the purposes of this section, the following definitions shall apply:

ANCHORED OR TIED DOWN SPORTING EQUIPMENT. Includes volleyball nets and other sporting equipment that must be anchored or tied down in order to use on the beach.

SHADING DEVICES. Tents, umbrellas, pavilions, cabanas, canopies and similar structures designed or used to provide shade.

- (B) Shading devices and anchored or tied down sporting equipment must be located at least 12 feet from the front dune line, and shall not block pedestrian walkways and /or emergency vehicle accesses.
- (C) Anchoring lines and tie down strings for shading devices and sporting equipment, if used, may not extend more than two feet from the supporting pole.

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- (D) Violation of this section shall not constitute an infraction or misdemeanor. Violation of this section shall subject the offender to a civil penalty to be recovered by the town in a civil action in the nature of debt if said civil penalty is not paid within 72 hours after being cited for the violation. The civil penalty shall be \$25.00 for each separate or distinct offense.

130.99 - PENALTY

- (A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99
- (B)
- (1) Violation of § 130.04 will result in the immediate surrender of the laser pointer to the appropriate law enforcement officer and shall be a misdemeanor, punishable as provided by G.S. § 14-4.
 - (2) In addition, any person violating the terms of § 130.04 may be subject to civil penalty in the amount of \$50.00, payable within 72 hours of being cited for violation of this section.
- (C)
- (1) Violation of § 130.06 shall be a misdemeanor, punishable as provided by G.S. § 14-4.
 - (2) In addition, any person violating the terms of § 130.06 shall be subject to a civil penalty in the amount of \$25.00, payable within 72 hours of being cited for violation of this section.
- (D)
- (1) Violation of § 130.08 shall be a misdemeanor, punishable as provided by G.S. § 14-4.
 - (2) In addition, any person violating the terms of § 130.08 shall be subject to a civil penalty in the amount of \$50.00, payable within 72 hours of being cited for violation of this section.
 - (3) Each day of continuing violation shall be a separate and distinct offense.